



## CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 23, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0100

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Lawful and Proper (Expedited)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.140-POL - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Unfounded

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

The Complainant alleged that Named Employee #1 (NE#1) used unauthorized force by improperly applying handcuffs, causing bruising. The Complainant alleged that Named Employee #2 (NE#2) treated her "like a slave" by putting her in "shackles." The Complainant also alleged that NE#2 put her in a "headlock" while escorting her from a hospital.

### **ADMINISTRATIVE NOTE:**

During its intake investigation, OPA noted that NE#1 may have failed to screen the Complainant's alleged handcuff discomfort with a supervisor. OPA returned that allegation to NE#1's chain of command for Supervisor Action.<sup>1</sup> During its intake investigation, OPA also noted that Witness Supervisor #1 (WS#1)—a sergeant—may have failed to conduct a preliminary investigation into bias-based policing after the Complainant alleged that she was treated like a slave. OPA also returned that allegation to WS#1's chain of command for Supervisor Action.

The allegation against NE#1 was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the involved employee about that allegation. As such, OPA did not interview NE#1. Additionally, on March 30, 2023, OIG certified OPA's Expedite Investigation as thorough, timely, and objective.

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<sup>1</sup> A supervisor action generally involves a minor policy violation or performance issue that the employee's supervisor best addresses through training, communication, or coaching. See OPA Internal Operations and Training Manual 5.4(B)(ii).



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The allegations against NE#2 underwent a full investigation. On August 15, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

**SUMMARY OF INVESTIGATION:**

WS#1 submitted an OPA complaint on the Complainant's behalf. OPA opened an investigation, including reviewing the complaint, incident report, body-worn video (BWV), handcuff discomfort reports, and email correspondence. OPA also interviewed the Complainant and NE#2.

*A. OPA Complaint*

The complaint stated the following:

WS#1 wrote that the Complainant said NE#1 handcuffed her too tightly, bruising her wrist. WS#1 noted a small circular dark spot on the Complainant's left wrist. WS#1 wrote that he reviewed NE#1's BWV and concluded that the Complainant's allegation was unsubstantiated.

WS#1 wrote that the Complainant said NE#2 handcuffed her too tightly at a hospital. WS#1 wrote that he arrived at the hospital to check the handcuffs. WS#1 wrote that the Complainant also said NE#2 put her in a headlock while escorting her from the hospital. WS#1 wrote that he spoke with NE#2, had NE#2 demonstrate how she escorted the Complainant, and concluded that the Complainant's allegation was unsubstantiated.

*B. Incident Report*

NE#1 wrote an incident report documenting the following:

On February 18, 2023, around 12:59 AM, NE#1 responded to a domestic violence (DV) disturbance call. According to NE#1, dispatch remarks noted that the Complainant reported that her daughter and four children threatened to assault the Complainant. NE#1 wrote that when officers arrived, the Complainant said she wanted Community Member #1 (CM#1)—the Complainant's daughter—and CM#1's children out of her apartment because they were rude and that the Complainant disagreed with CM#1's planned medical procedure. NE#1 wrote that the Complainant appeared intoxicated.

NE#1 wrote that the grandchildren said the Complainant was acting up. NE#1 also wrote that officers saw Community Member #2 (CM#2)—one of the Complainant's grandchildren—holding a bag of frozen carrots against his face. When officers inquired, CM#2 said the Complainant intentionally threw a metal water bottle at him. NE#1 wrote that officers saw a small red mark under CM#2's left eye. The other grandchildren corroborated CM#2's account. CM#1 said she did not see the assault.

NE#1 wrote that officers arrested the Complainant for DV assault in the fourth degree and photographed CM#2's injury and the metal water bottle. NE#1 also wrote that the Complainant was booked at the King County Jail.



*C. Body-Worn Video (BWV) and Handcuff Discomfort Reports*

OPA reviewed NE#1's BWV and found it consistent with his incident report. Additionally, NE#1's BWV captured NE#1 handcuffing the Complainant, who was upset but compliant. NE#1 gauged the handcuff's tightness with his fingers. The Complainant said they were too tight. NE#1 said he would "double cuff" her. NE#1 connected two sets of handcuffs to allow for more movement. NE#1 re-gauged the tightness of the handcuffs, then double-locked the second set of handcuffs to prevent them from tightening. The Complainant did not complain thereafter.

OPA reviewed the handcuff discomfort report written by Witness Supervisor #2 (WS#2)—a sergeant. WS#2 wrote that the Complainant said her handcuffs caused a small, purple-colored mark at the base of her left thumb. WS#2 wrote that he reviewed photographs and NE#1's BWV, showing a mark on the Complainant's left thumb before she was handcuffed. WS#2 concluded it was a pre-existing mark not caused by handcuffs.



*Still image from NE#1's BWV depicting the mark on Complainant's hand before handcuffing.*

OPA reviewed NE#2's BWV, showing the handcuffed Complainant sitting on a hospital bed. The Complainant stood up, and NE#2 escorted the Complainant from the hospital by holding onto the Complainant's left arm. A hospital employee accompanied them. The Complainant said the handcuffs were "too tight." NE#2 replied, "I know you said the right one was too tight. I checked it, and I can get my entire finger in there." The Complainant continued complaining about handcuff discomfort while entering NE#2's police vehicle.

NE#2's BWV captured NE#2 transporting the Complainant to the East Precinct. During transport, the Complainant alleged NE#2 put the Complainant in a headlock and treated her "like a slave" because she was "shackled." At the East Precinct, NE#2 told WS#1 about the handcuff discomfort and mistreatment complaints. WS#1 checked the handcuffs and confirmed they were applied correctly. WS#1 asked the Complainant about the headlock allegation. The Complainant said, "[NE#2] grabbed me because I said it was too tight." When WS#1 sought clarification, the Complainant said, "It was like a headlock. I don't deserve to be treated like this." NE#2 transported the Complainant to the King County Jail.



OPA reviewed WS#1's handcuff discomfort report. WS#1 wrote that after the Complainant's complaints, he checked the handcuffs, found adequate spacing, and saw that they were double-locked. WS#1 wrote that he did not see an injury caused by the handcuffs.

#### *D. OPA Interviews*

OPA interviewed the Complainant. She said she was a 64-year-old woman who should not have been handcuffed. She said NE#2 handcuffed her too tightly at the hospital. She also said NE#2 put her in a headlock when NE#2's hand gripped the back of her neck. The Complainant said she was treated like a slave when she was "shackled" to the hospital bed "like they used to do to slaves."

OPA interviewed NE#2. NE#2 said she was assigned as a hospital guard. NE#2 said the Complainant arrived in "soft" restraints, cloth straps applied by hospital staff. After the Complainant was discharged, NE#2 said she removed the "soft" restraints and handcuffed the Complainant, who did not resist. NE#2 denied grabbing the back of the Complainant's neck. NE#2 said she used the escort position, which meant NE#2 put her right hand between the Complainant's left arm and body while NE#2's left hand was on the Complainant's left shoulder. NE#2 said she escorted the Complainant with *de minimis* force.<sup>2</sup> NE#2 denied treating the Complainant differently based on her race.

#### *E. Email Correspondence*

OPA contacted the hospital employee who walked with NE#2 and the Complainant out of the hospital. She did not recall seeing NE#2 grab the back of the Complainant's neck but was uncertain. She reviewed her notes and found that she did not document inappropriate force. She said she would have documented anything inappropriate.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

##### ***8.200 - Using Force 1. Use of Force: When Authorized***

The Complainant alleged that NE#1 used unauthorized force.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary, and proportional. Officers shall only use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective." Whether force is reasonable depends "on the totality of the circumstances" known to the officers at the time of the force and must be balanced against "the rights of the subject, in light of the circumstances surrounding the event." SPD Policy 8.050. Reasonableness must allow that officers are often forced to make "split-second decisions" under tense, dynamic circumstances. *Id.* The policy also lists several factors that should be weighed when evaluating reasonableness. *See id.* Force is necessary where "no reasonably effective alternative to the use of force appeared to exist" and "the amount of force used was reasonable to effect the lawful purpose intended." *Id.* Lastly, the force used must be proportional to the threat posed to the officer. *Id.*

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<sup>2</sup> *De minimis* force is physical interaction meant to separate, guide, and/or control without the use of control techniques that are intended to, or are reasonably likely to, cause any pain or injury. SPD Policy 8.050.



Here, BWV captured NE#1 handcuffing the Complainant. NE#1 properly checked for handcuff tightness using his fingers. NE#1 also used an additional set of handcuffs to give the Complainant extra room between her hands. NE#1 did not use any force beyond *de minimis* to handcuff the Complainant. Although the Complainant alleged that the handcuffs slightly bruised her left hand, NE#1's BWV refutes this allegation. It showed the bruise was present before NE#1 handcuffed the Complainant. NE#1's *de minimis* force was reasonable, necessary, and proportional to effectuate the Complainant's arrest.

NE#1 used *de minimis* force to handcuff the Complainant. This was within policy. Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

**Named Employee #2 - Allegation #1**

***5.140-POL - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing***

The Complainant alleged NE#2 engaged in bias-based policing.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatments based on race. *See id.*

Here, the Complainant alleged NE#2 treated her like a slave when hospital staff applied “soft” restraints on the Complainant, which she interpreted to be “shackles.” NE#2 likely did not order the “soft” restraints on the Complainant. *See* SPD Policy 11.030-PRO-1 (providing that a sergeant determines “[t]he level of restraints required”). Furthermore, no evidence suggests that NE#2 treated the Complainant differently based on her race. OPA reviewed NE#2's BWV and did not find evidence that NE#2 violated any policy or engaged in bias-based policing.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #2 - Allegation #2**

***8.200 - Using Force 1. Use of Force: When Authorized***

The Complainant alleged that NE#2 used unauthorized force by putting her in a headlock.

Here, although NE#2's BWV did not show her hands' placement on the Complainant, it showed NE#2 walking on the Complainant's left side, consistent with the escort position and NE#2's description of how she escorted the Complainant. Further, when WS#1 asked the Complainant to clarify what she called a headlock, the Complainant said, “It was like a headlock” and, in her interview, described the headlock as NE#2 gripping the back of the Complainant's neck. The Complainant's description of the alleged misconduct is inconsistent with a headlock. NE#2 described using the escort position and denied touching the Complainant's neck. The hospital employee who walked with NE#2 and the Complainant corroborated NE#2's account, saying she did not recall seeing NE#2 grab the back of the Complainant's neck and would have reported inappropriate force. Based on these facts, OPA finds NE#2 did not put the Complainant in a headlock. Instead, the evidence indicates that NE#2 used an escort position on the Complainant,



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a *de minimis* use of objectively reasonable, necessary, and proportional force to escort the Complainant from the hospital and into NE#2's police cruiser.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**